

Councilmember Robert C. White, Jr.



Councilmember Brianne K. Nadeau



Councilmember Janeese Lewis George




Councilmember Charles Allen



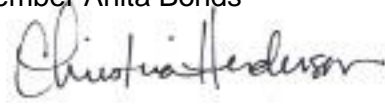
Councilmember Brooke Pinto



Councilmember Elissa Silverman



Councilmember Anita Bonds



Councilmember Christina Henderson



Councilmember Kenyan R. McDuffie

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require written agreements when a hiring entity employs a domestic worker as their employee or engages with a domestic worker who is an independent contractor; to specify what information must be provided in the written agreement; to require certain information to be posted online for the benefit of hiring parties and domestic workers; to specify the administrative procedure for filing complaints; to specify the power of the Mayor and Attorney General to enforce the law; to require workplace safety assistance for private households where domestic workers perform their work; to require certain educational materials and outreach to be provided to domestic workers and their employers; to amend the District of Columbia Human Rights Act to eliminate the exclusion of domestic workers from its protections; and to amend the Occupational Safety and Health Act to eliminate the exclusion of domestic workers from its protections;

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Domestic Worker Employment Rights Amendment Act of 2022”.

TITLE I. DOMESTIC WORKER CONTRACTS.

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) “An Act” means An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*).

(2) “Child development facility” has the same meaning as defined in the Child Development Facilities Regulation Act of 1997, effective April 13, 1999 (46 DCR 274, DC Official Code § 7-2031).

(3)(A) “Domestic worker” means a person who works in a private residence performing one or more of the following:

- (i) Caring for a child;
- (ii) Serving as a companion or caretaker for a sick, convalescing, or elderly person or a person with a disability;
- (iii) Organizing or cleaning the home or its contents, including laundering;
- (iv) Cooking, preparing, or shopping for food;
- (v) Parking cars;
- (vi) Gardening; or
- (vii) For any other domestic service purpose.

(B) “Domestic worker” does not include:

- (i) A family member;
- (ii) An individual employed at or by a child care provider;

(iii) An individual who primarily performs household repair or maintenance, such as a roofing, plumbing, masonry, painting, renovating, or other similar construction work;

(iv) A child development facility employee in the conduct of the employee's regular duties for the child development facility;

(v) An individual less than 18 years of age; or

(vi) An individual employed on a casual or intermittent basis and whose primary occupation is not domestic services.

(5) "Employ" has the same meaning as used in section 32-1002 (1A) of the Minimum Wage Act Revision Act of 1992, DC Law 9-248, effective March 25, 1993.

(6) "Engage" means to agree to provide a fee for services rendered by an independent contractor or other person whom both parties agree is not the employee of the payor.

(7) "Hiring entity" means an individual, partnership, association, corporation, business trust, or any entity, person, or group who employs or engages a domestic worker to work at a residence in the District.

(8) "Live-in domestic worker" means a domestic worker who resides in the household where they are employed by a hiring entity.

Sec. 102. Hiring entity responsibilities.

(a)(1) No hiring entity shall employ or engage a domestic worker for the performance of domestic services of 5 hours or more in one month without providing a written agreement as specified in subsection (b) of this section no later than the first day the domestic worker is expected to perform work.

(2) A provision of a written agreement executed pursuant to subsection (a) of this section is void if it:

(A) Waives or purports to waive any provision of this act or rights pursuant to federal or District law;

(B) Establishes mandatory pre-dispute arbitration;

(C) Includes a non-disclosure agreement; or

(D) Includes a non-compete provision.

(3) A hiring entity shall make reasonable efforts to provide the domestic worker with a translation of the agreement in the domestic worker's preferred language.

(4) More than one hiring entity may be a party to the agreement required by this section.

(b)(1) A written agreement required pursuant to subsection (a) of this section shall include the following:

(A) Start date;

(B) If known, end date of employment or end date of the contract;

(C) Location where work will usually be performed;

(D) The hiring entity's primary contact information including telephone number;

(E) The duties to be performed;

(F) The rate of pay per hour, week, or other unit of time, specifying for domestic workers who are employees the rate per hour and overtime rate;

(G) Manner and frequency of payment;

(H) Date first payment will be provided;

115 (I) Weekly schedule including days of the week, start time, end time, and
116 number of hours per week;

117 (J) Whether the hiring entity provides rest breaks or meal breaks;

118 (K) Types of leave from work provided and whether paid or unpaid;

119 (L) Any other compensation or reimbursement provided by the hiring
120 entity, such as health insurance premiums, transportation allowance, or separation pay;

121 (M) Whether the domestic worker must provide their own vehicle for the
122 fulfillment of work duties;

123 (N) For live-in domestic workers, a description of the type and value of
124 housing provided, time of sleeping period, and personal time allotment; and

125 (O) Any other terms and conditions as agreed upon by the parties to the
126 agreement.

127 (2) If any of the provisions do not apply to the agreement between the parties, the
128 hiring entity shall specify on the agreement the provisions that do not apply.

129 (c)(1) A hiring entity need not use the template provided by the Mayor pursuant to
130 section 103 in order to comply with this section.

131 (2) Nothing in this title shall be construed to mean that a hiring entity may not
132 include other lawful terms in a contract with a domestic worker, including more generous terms.

133 (3) Any time one or more of the terms in the agreement changes, the parties shall
134 execute a new agreement reflecting the new terms.

135 (4) Unless otherwise specified in an agreement between the parties, no provision
136 of a written agreement required pursuant to subsection (b) of this section should be interpreted to
137 limit or prohibit either party from terminating the employment or engagement at-will.

(e) A hiring entity shall retain for a period of no less than 3 years a true and accurate copy of an executed written agreement with a domestic worker and other records required pursuant to rules promulgated by the Mayor.

Sec. 103. Enforcement

(a)(1) The Mayor and Attorney General for the District of Columbia ("Attorney General") shall administer and enforce this title consistent with their respective powers and rights under section 6(a), (b), and (c) of An Act.

(2)(A) Any records a hiring entity maintains pursuant to the requirements of this title and regulations issued to implement this title shall be open and made available for inspection or transcription by the Mayor, the Mayor's authorized representative, or the Office of the Attorney General upon demand at any reasonable time. A hiring entity shall furnish to the Mayor, the Mayor's authorized representative, or the Office of the Attorney General on demand a sworn statement of records and information on forms prescribed or approved by the Mayor or Attorney General.

(B) No hiring entity may be found to be in violation of subparagraph (A) of this paragraph unless the hiring entity had an opportunity to challenge the Mayor or Attorney General's demand before a judge, including an administrative law judge.

(C) The Mayor and Attorney General shall maintain the confidentiality of all records it obtains in connection with enforcement activities to the full extent permitted by law.

(3) The Mayor may not collect an administrative penalty under this subsection unless the Mayor has provided the hiring entity alleged to have violated this title notification of the violation, notification of the amount of the administrative penalty to be imposed, and an

161 opportunity to request a formal hearing held pursuant to the Administrative Procedure Act,
162 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), and section 8a(e)
163 of An Act.

164 (b)(1) The Mayor may assess an administrative penalty of no less than \$250 for each
165 violation of this title.

166 (c)(1) A person aggrieved by a violation of this title may pursue relief by filing:

167 (A) An administrative complaint with the Mayor setting forth facts
168 minimally sufficient to allege a violation of this title; or

169 (B) A civil action in a court of competent jurisdiction. In such action, a
170 plaintiff shall carry the burden of proof by a preponderance of evidence.

171 (2)(A)(i) The procedures set forth in section 8a(c) through (m) of An Act, shall
172 govern the conciliation, resolution, and enforcement of an administrative complaint filed
173 pursuant to paragraph (1)(A) of this subsection; except, that section 8a(e)(4) and (5) of An Act,
174 shall not apply.

175 (ii) Appeals of any administrative order issued under this title shall
176 be made to the District of Columbia Court of Appeals.

177 (B) Section 8 of An Act shall apply to any civil action filed pursuant to
178 paragraph (1)(B) of this subsection.

179 (d) Upon investigation by the Mayor pursuant to subsection (a) of this section or in an
180 action to enforce this title pursuant to subsection (c) of this section, a hiring entity found to have
181 violated this title shall be liable for relief payable to a domestic worker in an amount not less
182 than \$250.

(e) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules necessary to implement the provisions of this title.

Sec. 104. Outreach and public guidance.

(a)(1) The Mayor shall create and make available template agreements that a hiring entity may use to comply with the requirements of section 102 in English, Spanish, and at least 5 of the most commonly-spoken languages in the District.

(2) The template agreements required by paragraph (1) shall be capable of being downloaded, filled in on a computer, printed, and saved by a member of the public using a desktop computer, tablet, smartphone, or mobile device.

(b) No later than 120 days after the applicability date of this act, the Mayor shall award grants pursuant to the requirements set forth in the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*) to provide guidance to domestic workers and hiring entities about domestic workers' rights under the law as follows:

(1) Grantees shall be community-based organizations with experience working with domestic workers or hiring entities;

(2) Grantees shall develop a training curriculum for domestic workers and hiring entities about how to mitigate workplace health and safety hazards commonly present in private homes; and

(3) Grantees shall conduct education and outreach to domestic workers, hiring entities, and the public about the rights of domestic workers.

(c)(1) The Mayor shall create a website that provides information in plain, easy-to-read format for use by domestic workers, hiring entities, and the general public.

206 (2) The information provided on the website shall include:

207 (A) The template agreements created pursuant to subsection (a) of this

208 section;

209 (B) Instructions for how to use the templates;

210 (C) Answers to commonly asked questions about this act's requirements;

211 (D) Information about the rights of domestic workers under An Act To

212 provide for the payment and collection of wages in the District of Columbia, approved August 3,

213 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*), the Minimum Wage Revision Act of

214 1992, approved March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1002 *et seq.*), the

215 Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152, D.C.

216 Official Code § 32-531.01 *et seq.*), the Universal Paid Leave Act, effective Apr. 7, 2017 (D.C.

217 Law 21-264, D.C. Official Code § 32-541.01 *et seq.*), and the District of Columbia

218 Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code

219 § 51-101 *et seq.*).

220 (E) Instructions about how to file a complaint and how to respond to a

221 complaint under this title;

222 (F) Links to resources provided by the United States Department of Labor

223 regarding the rights of domestic workers; and

224 (G) A link to IRS Publication 926, Household Employer's Tax Guide or

225 revisions or successor publications thereof.

226 (3) The website shall provide the information required under paragraph (2) of this

227 subsection in English, Spanish, and at least 5 of the most commonly-spoken languages in the

228 District.

229 TITLE II. HUMAN RIGHTS PROTECTIONS.

230 Sec. 201. Section 102(10) of the Human Rights Act of 1977, effective December 13,
231 1977 (D.C. Official Code § 2-1401.02(10)), is amended by striking the phrase “children or
232 domestic servants,” and inserting the phrase “or children,” in its place.

233 TITLE III. OCCUPATIONAL SAFETY AND HEALTH.

234 Sec. 301. (a) Section 2(5) of the DC Occupational Safety and Health Act of 1988,
235 effective March 16, 1989 (D.C. Law 7-186; DC Official Code § 32-1101(5)),) is amended by
236 striking the phrase “obligation, but does not include domestic servants.” and inserting the phrase
237 “obligation.” in its place.

238 Sec. 302. Fiscal impact statement.

239 The Council adopts the fiscal impact statement in the committee report as the fiscal
240 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
241 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

242 Sec. 303. Effective date.

243 This act shall take effect following approval by the Mayor (or in the event of veto by the
244 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
245 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
246 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
247 Columbia Register.